

# SECONDARY TRANSITION

## Transfer of Rights to the Adult Student

In Montana, a student who has turned age 18 has the right and responsibility to make certain legal choices, unless those rights have been legally taken from the student.

### What are the responsibilities of the school?

When the student reaches age 18, the school will provide notice to both the student and parents of the transfer of rights.

### What does this mean for students with disabilities?

The Individuals with Disabilities Act (IDEA) gives Montana the authority to transfer educational decision-making rights to individuals at the age of majority. In Montana, the age of majority is 18 and at that time students become responsible for their educational program. Beginning at least one year before the student reaches age 18, the student's IEP must include a statement that the student has been informed of the rights that will transfer to him or her at age 18. All of the educational rights previously provided to the parents transfer to the student.

### What are the educational rights that transfer to the student at age 18?

The student has the right to:

- Receive notice of, attend and participate in Individual Education Program (IEP) and Evaluation Report (ER) meetings. Parents still receive notice of IEP and ER meetings.
- Consent to evaluation.
- Consent to change placement.
- Review educational records.
- Request mediation or a due process hearing.
- File a complaint to resolve a dispute about evaluation, identification, eligibility educational placement, or other aspects of a Free Appropriate Public Education (FAPE).

### How do we prepare students for the transfer of rights?

Beginning at age 15, the law requires that students be invited to attend their IEP meeting. Students should be encouraged to be an active participant in their IEP meeting. This can help them acquire the decision-making skills they will need at age 18.

### Can parents continue to retain educational rights after a student reaches the age of 18?

In certain circumstances a court can appoint the student's parent, or another appropriate individual, as the legal guardian. If guardianship is awarded, the guardian will make educational decisions as part of the IEP team. Montana statutes provide for appointment of a guardianship under 72-5-301 et seq, MCA. Guardianship is a legal process, and parents may wish to seek the assistance of an attorney to accomplish this.



*"Transition...  
Beginning with the end in  
Mind!"*

*At age 18, students with  
disabilities have the right  
to make their own  
decisions about  
their educational  
program.*



Montana  
Office of Public Instruction  
Denise Juneau, State Superintendent

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*Adapted from Parent Brief, NCSET and PACER Center, April 2002*

If you have questions regarding the Transfer of Parental Rights process, please contact the Division of Special Education at (406)444-5661.